231559

UNION PACIFIC RAILROAD 101 North Wacker Drive, Room 1920 Chicago, Illinois 60606-1718 Mack H. Shumate, Jr. Senior General Attorney, Law Department

P 312 777 2055 F 877 213 4433 mackshumate@up.com

December 23, 2011

ENTERED Office of Proceedings

VIA E-FILE

DEC 23 2011

The Honorable Cynthia T. Brown Chief, Section of Administration Surface Transportation Board 395 E. Street, S.W., Room #100 Washington, DC 20423-0001 Part of Public Record

Ke:

Exemption for Discontinuance of Service of a portion of the Shawnce Branch from Milepost 370.5 near McAlester to Milepost 428.0 near Seminole, a distance of 57.69 miles in Pittsburg, Hughes and Seminole Counties, Oklahoma; STB Docket AB-33 (Sub-No. 299X)

Dear Ms. Brown:

Pursuant to the Board's exemption procedures for discontinuance of service of rail lines with no local business for at least two years, (49 C.F.R. § 1152.50), I am hereby e-filing the Verified Notice of Exemption, including a Certificate of Service and Publication.

Please file the Notice of Exemption in Docket No. AB-33 (Sub-No. 299X). Enclosed is a credit authorization voucher in the amount of \$3,600.00 for the filing fee.

FEE RECEIVED

UEU 2 3 2011

SURFACE TRANSPORTATION BOARD

Enclosures

cc: All

All Concerned Parties

FILED

PEC 2 3 2011

O:\Abandonments\33-299X\2011_12_23 Ltr to Cynthia Brown re NOE.doc

SURFACE TRANSPORTATION BOARD

BEFORE THE SURFACE TRANSPORTATION BOARD

ENTERED Office of Proceedings

DEC 23 2011

Part of Public Record

Docket No. AB-33 (Sub-No. 299X)

UNION PACIFIC RAILROAD COMPANY
-- NOTICE OF EXEMPTION FOR DISCONTINUANCE OF SERVICE -IN PITTSBURG, HUGHES AND SEMINOLE COUNTIES, OKLAHOMA
(SHAWNEE BRANCH LINE)

FEE RECEIVED

-DEC 2 3 2011

SURFACE TRANSPORTATION BOARD

Notice of Exemption for Discontinuance of Service and Trackage Rights

FILED

DEC 2 3 2011

SURFACE TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY Mack H. Shumate, Jr. Senior General Attorney 101 North Wacker Drive, Room 1920 Chicago, IL 60606 Telephone: 312/777-2055

Facsimile: 877-213-4433 mackshumate@up.com

Dated: December 23, 2011 Filed: December 23, 2011

BEFORE THE SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 299X)

UNION PACIFIC RAILROAD COMPANY
--- NOTICE OF EXEMPTION FOR DISCONTINUANCE OF SERVICE -IN PITTSBURG, HUGHES AND SEMINOLE COUNTIES, OKLAHOMA
(SHAWNEE BRANCH LINE)

PER KECKEYAL

13 5 6 39 1

Notice of Exemption for

VON 1982 Discontinuance of Service and Trackage Rights Carter (12:145) は、12:145 (13:145) (1

Union Pacific Railroad Company ("UP") submits this verified Notice of Exemption for Discontinuance of Service ("Notice of Exemption") pursuant to 49 § C.F.R. 1152, Subpart F -- Exempt Abandonments and Discontinuances of Service for an exempt discontinuance of service on that portion of Shawnee Branch Line extending from Milepost 428.00 near Seminole to Milepost 370.5 near McAlester, a total distance of 57.69 miles (the "Line"), in the Counties of Pittsburgh, Hughes and Seminole Counties, Oklahoma.

Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)

The discontinuance of service is proposed to be consummated on or after February 11, 2012 (at least fifty (50) days after filing this Notice of Exemption).

Certification: 49 C.F.R. 1152.50(b)

UP certifies that no local or overhead traffic has moved over the Line for at least two (2) years. Therefore, there is no need to reroute any traffic. UP further certifies

that no formal complaint filed by a user of rail service on the Line (or filed by a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Board or any U.S. District Court, or has been decided in favor of the complainant within the two-year period.

Additional Information Required: 49 C.F.R. 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

- (a) General.
 - (a)(1) The railroad's exact name is Union Pacific Railroad Company.
- (a)(2) UP is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.
- (a)(3) UP intends to discontinue service from Milepost 428.0 near Seminole to Milepost 370.5 near McAlester, a total distance of 57.69 miles in Pittsburgh, Hughes and Seminole Counties, Oklahoma. The specific track profile breakdown by county for the Line is as follows:
 - Pittsburgh County Milepost 370.5 to Milepost 386.07, no equation, 15.57.
 - Hughes County Milepost 386.07 to Milepost 414.80, equation 402.78 equals 402.59, an additional 0.19, 28.92 miles after equation.
 - Seminole County Milepost 414.80 to Milepost 428.0, no equation, 13.20 miles, 57.69 miles total after single equation.
- (a)(4) A map showing the location of the Line in relation to other rail lines, highways, and major roads in the area is attached as **Exhibit 1** and is hereby made a part hereof.
- (a)(7) The representative to whom correspondence regarding this abandonment and discontinuance should be sent is:

Mack H. Shumate, Jr. Senior General Attorney 101 North Wacker Drive, Room 1920 Chicago, IL 60606 Telephone: 312-777-2055

Facsimile: 877-213-4433 mackshumate@up.com

(a)(8) <u>ZIP Code</u>. The Line traverses U. S. Postal Service Zip Codes 74501, 74570, 74531, 74848, 74884 and 74868.

(e)(4) Rural and Community Impact.

The Line was constructed by the Choctaw, Oklahoma and Gulf Railroad (Chicago, Rock Island and Pacific Railroad) in 1895. While the UP holds abandonment authority by Board decision issued in 1992, for that portion of the Line from milepost 381.0 west of McAlester to milepost 417.0 near Holdenville, Oklahoma, UP desires to defer such authority at this time for discontinuance authority for the Line as defined herein.

There are no shippers on the Line, and no commodities have originated or terminated on the Line for over two years. There is no overhead traffic over the Line, or any passenger service. No complaints regarding cessation of service have been filed at the Board, are pending, or have been decided in favor of a complainant within the past two years. The discontinuance of service on the Line will have no effect on local or regional transportation systems, and no traffic will be diverted to other transportation systems. There will be no effect on area transportation systems and patterns. There will be no effect on the movement of energy resources, recyclable commodities, or ozone depleting chemicals. There will be no net change in energy consumption. The

activity and diversion thresholds for determining noise and air quality impacts will not be surpassed.

After discontinuance, the closest rail services in the vicinity of the Line will be provided as follows:

- At McAlester by UP, AOK (Arkansas-Oklahoma Railroad) and KCS.
- At Holdenville (Branch Milepost 410.7) by BNSF.
- At Shawnee by UP, AOK and BNSF.

The majority of the communities along the Line are served by U.S. Highway 270, which shares part of its route with U.S. Highway 75. Highway 270 connects to the Indian Nation Turnpike at McAlester and with Interstate 40 near Shawnee.

Based upon information in the UP's possession, the Line contains both federally granted right-of-way and revisionary right-of-way. UP will make any documentation in its possession available promptly to those requesting it.

A map of the Line is attached as Exhibit No. 1.

Labor Protection

The interests of railroad employees will be protected by the conditions discussed in *Oregon Short Line Railroad Co. – Abandonment – Goshen*, 360 ICC 91 (1979).

Certifications

Attached as Exhibit 2 is a Certificate of Service and Publication, pursuant to the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.11 and 1105.12.

Environmental and Historic Report

Not applicable in that UP is merely discontinuing service and trackage rights on the Line.

UP did receive three (3) written responses to the initial letter to governmental agencies informing of the proposed discontinuance of the Line. All responses were favorable to the project.

- 1. By letter dated February 14, 2011, the Department of the Army advised that the discontinuance as proposed is not subject to regulation pursuant to Section 404 of the Clean Water Act and a Department of Army permit will not be required. See attached Exhibit No. 3.
- 2. By letter dated January 24, 2011, the United States Department of Agriculture advised that the discontinuance will have no effect on prime farmland. See attached Exhibit No. 4.
- 3. By letter dated February 8, 2011, the Oklahoma Historical Society advised that there are no historic properties that will be affected by the discontinuance. See attached Exhibit No. 5.

Dated this 23 day of December, 2011.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

Mack H. Shumate, Jr.

Senior General Attorney

101 North Wacker Drive, Room 1920

Chicago, IL 60606

Telephone: 312-777-2055 Facsimile: 877-213-4455 mackshumate@up.com

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VERIFICATION

STATE OF NEBRASKA)

COUNTY OF DOUGLAS

) ss:

I, RAYMOND E. ALLAMONG, JR., Senior Manager Rail Line Planning of Union

Pacific Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to

the best of my knowledge, information and belief. I further declare that I am qualified and

authorized to submit this verification on behalf of Union Pacific Railroad Company.

Dated at Omaha, Nebraska, this 16th day of December, 2011.

Raymond E. Allamong, Jr.

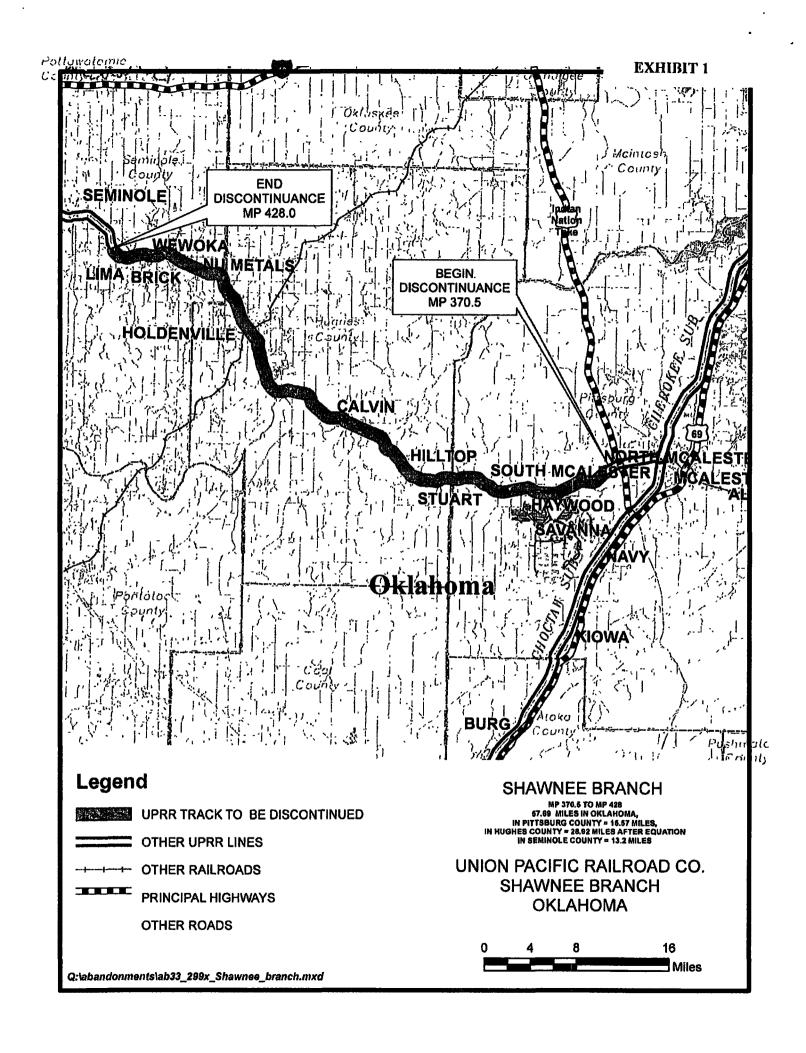
SUBSCRIBED AND SWORN TO before me this 16th day of

December, 2011.

My Commission expires:

GENERAL HOTARY - State of Nebraska
DONNA M. COLTRANE

My Comm Exp. May 6, 2012



UNION PACIFIC RAILROAD COMPANY -- NOTICE OF EXEMPTION FOR DISCONTINUANCE OF SERVICE -IN PITTSBURG, HUGHES AND SEMINOLE COUNTIES, OKLAHOMA (SHAWNEE BRANCH LINE)

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) - Notice

The undersigned certifies that on December 12, 2011 (at least ten (10) days before a Notice of Exemption is filed), written notice was given of Union Pacific's intent to use the exemption notice procedure to discontinue service and trackage rights from Milepost 370.5 near McAlester to Milepost 428.0 near Seminole, a total distance of 57.69 miles in the Counties of Pittsburgh, Hughes and Seminole Counties, Oklahoma in Docket No. AB-33 (Sub-No. 299X). Written notice (a copy of which is attached) was served on the following:

Mr. Gary Ridley Secretary of Transportation State of Oklahoma 200 NE 21st Street Oklahoma City, OK 73105

Midwest Region National Park Service 601 Riverfront Drive Omaha, NE 68102-4226

Headquarters
Military Surface Deployment &
Distribution Command
Transportation Engineering Agency
Attn: SDTE-SA
Railroads for National Defense
709 Ward Drive, Building #1990
Scott AFB, IL 62225-5357

Office of Planning and Research 1901 North Walnut Avenue Oklahoma City, OK 73105

U.S. Department of Agriculture Chief of the Forest Service 4th Floor, N.W. Auditors Bldg. 14th Street & Independence Avenue, S.W. Washington, DC 20250

49 C.F.R. § 1105.11—Environmental and Historic Report

Not applicable in that UP is merely discontinuing service on the Line.

49 C.F.R. § 1105.12 - Newspaper Notice

The undersigned further certifies that a "Notice of Intent to Discontinue Service" was published in the form prescribed by the Board for a Notice of Exemption. The Notice was published one time in a major newspaper in each county in which the Line is located as follows:

County	<u>Newspaper</u>	<u>Date</u>	
Pittsburgh	McAlester News-Capital	December 16, 2011	
Hùghes	Holdenville Tribune	December 14, 2011	
Seminole	Seminole Producer	December 20, 2011	

Dated this 23rd day of December, 2011.

Mack H. Shumate, Jr.

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News

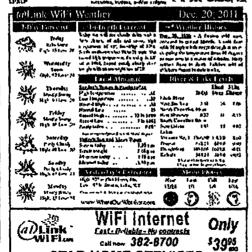
Public Notices

the Seminole Printings - Time, D. counter 20, 2011 - Proced

ADOR COMPANY (187 goas racks but on or who thermal or 72, 1941, a but of the mile who it eyes, Walkeylow, D.C. 1247s, a but on all surviving rather of E.F.E. that it is, blood of which and Charlestonian but one world describe the most of the describe of the State of the State of was four visitation 2015, four Mode ways in Milespot 418, 3 Law Lectures, a but of strong of \$1,48







STAR HOME SERVICES: an authorized @Link Wiff dealer

PROOF OF PUBLICATION

McAlester News-Capital 500 S. Second, McAlester, OK 74501 • 918-423-1700

I. Amy Johns, am of lawful age, being duly sworn upon oath, deposes and says:

That I am publisher of McAlester News-Capital, a daily newspaper printed and published in the City of McAlester, County of Pittsburg, and State of Oklahoma, and that the advertisement referred to, a true and printed copy is hereunto attached, was published in said McAlester News-Capital & in consecutive issues (Published in the MoAlester News Capital December 16. on the following dates to wit:

1st insertion	3/1/2
1st insertion	<i>!</i> 2011
2nd Insertion	2011
3rd Insertion	2011
4th Insertion	2011
5th Insertion	2011

That said newspaper has been published continuously and uninterruptedly in said county during a period one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that is has been admitted to the United States mail as publications (second-class) mail matter, that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the State of Oklahoma governing legal publications.

Publication Fee.....

Publisher

SUBSCRIBED and sworn to before me this

day of 1

Notary Public

#00002414 My Commission expires: 03/23/12 No. 0000241
EXP 3/23/201
IN AND
FOR

(Published in the MoAlester News Capital December 16, 2011)

NOTICE OF INTENT TO DISCONTINUE SERVICE.

UNION PACIFIC FAILEDOAD COMPANY ("UP") gives notice that on or after December 22, 2011; intends to tile with the Surtace Transportation Board; Washington, D.C. 20423, a Notice of Exemption under 49 C.F.R. Part 152, Subpart F - Exempt Abandomments and Discontinuances; for an exempt discontinuance of service on that portion of the Stawner Branch Line extending from Milegiost 370,5 pear McAlesier to Milepost 428,0 near Seminole, a total distance of 57.69 miles located in hitre counties of Pittsburg, Hughes and Seminole, Oklahoma (the "Line"). The Line traverses U. St. Poetal Service: Zip Codes 74501; 74570; 74573; 74848, 74884, and, 74886. The proceeding has been dicketed as No. AB 33 (Sub-No. 299X).

The Board's Section of Environmental Analysis ("SEA") will generally prepare an Environmental Assessment ("EA"), which will normally be available twenty-live (25) days after the filling of the Notice of Exemption: Comments on environmental and energy matters should be filled in later than 15 days after the filling of the Notice of Exemption. Comments on environmental and energy matters should be filled in later than 15 days after the EA becomes available to the public and will be addressed in a Board discision. Interested gersons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental reporting requirements under 49 CFR: 1105.8(b). Appropriate offers of financial assistance to continue rall service can be filled with the Board. An original and 10 copies of, any peacing the remover of the Exemption, will provide the Exemption of the Secretary 395. Estreet, SW Mashington, DC 20423 [See 40 CFR 1104.1(a) and 1104.3(a)]; and one copy must be served on the applicants representative. Soc 49 CFR 1104.1(a). One continue and service of congressional and Public Services at (886) 254-1792. Copies of any comments of requests for conditions should be served on UP's



LEGAL NOTICE

LEGAL NOTICE

NOTICE OF INTENT TO DISCONTINUE SERVICE

UNION PACIFIC RAILROAD COMPANY ("UP") gives notice that on or after December 22, 2011 it intends to file with the Surface Transportation Board, Washington, D.C. 20423, a Notice of Exemption under 49 C.F.R. Part 1152, Subpart F.—Exempt Abandorment, and Discontinuences, for an exempt discontinuance of service on that person of the Shawnes Branch Line extending from Milepos 370.5 near McAlester to Milepost 428.0 near Seminote, a total distance of 57.69 miles located in the counties of Pritaburg, Hughos and Seminote, Oktahoma (the "Line"). The Line Leverses U.S. Postel Service Zip Codes 74501, 74570, 74531, 74848, 74884 and 74868. The proceeding has been dockated as No. AB-33 (Sub No. 299X).

The Board's Section of Environmental Analysis ("SEA") will generally prepare an Environmental Assessment ("EA"), which will normally be evaluable thanty-five (25) days after the filing of the Notice of Exemption. Comments on environmental and energy material should be filed no tater than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested porsons may obtain a copy of the EA or make inquities regarding environmental maters by writing to the Section of Environmental Analysis (SEA), Surface Transportation Board, Vashington, OC 20423 or by calling that office at (202) 245 0295. The Notice of Exemption will provide that the proceeding is exempt from environmental reporting requirements under 49 CFR 1105.8(b).

Appropriate offers of francial essistance to continue real service can be filed with the Board. An original and 10 copies of any pleading that react

Appropriate oners of reginers assistance to consider all service can be seen with the loans. Texplosis for environmental concinions, public use conditions, or and benking likelit as each se filled with the Board. An original and 10 copies of any pleading that reset relaters other than environmental issues (such as traits use, public use, and offers of financial assistance) must be filled directly with the Board's Office of the Secretary, 395 E. Street, SW, Washington, DC 20423 [Soe 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on the applicant's representative. [See 49 CFR 1104.12(a)] Questions regarding offers of financial assistance, public use or teste use may be directed to the Board's Office of Congressional and Public Services at (868) 254-1792. Copies of any comment or requests for conditions should be served on UP's: Mack Shumate, Jr., Senior General Alforney, 101 North Wacker Orive, #1920

Chicago, Illinois 50508 (312) 777-2055. UNION PACIFIC RAILROAD COMPANY END DISCONTINUANCE BEGIN DISCONTINUANCE MP 370 5 Legend SHAWNEE BRANCH M SERMOLD COMMIS- 13 3 M EEB SE S COMMIS - 1813 MEE E ST SE MITSE IN ONLYHOMY DE SHE SE ST SERVE SE SERVE SERVE SERVE SE SERVE UPRR TRACK TO BE DISCONTINUED OTHER UPRR LINES UNION PACIFIC RAILROAD CO. - OTHER RAILROADS SHAWNEE BRANCH PRINCIPAL HIGHWAYS **OKLAHOMA** - --- OTHER ROADS 16 Miles Q.tabendonnentsleb33_299x_Shaenee_branch.mxd

In The District Court of Hughes County, Oklahoma

PROOF OF PUBLICATION

CASE NO.

UNION PACIFIC RAIL- ROAD CO Notice of Intent to Discontinue Ser- vice		nuthorized, says that he is Editor/Office ted in the Town of Holdenville. Hughes tices, advertisements and publications 71 as amended, and complies with all o legal publications. was published in the regular edition of not in a supplement, on the following	December, 2011
Vs. Plaintiff Defendant	STATE OF OKLAHOMA ss: COUNTY OF HUGHES	I, the undersigned. of lawful age, being duly sworn and authorized, says that he is Editor/Office Manager of The Holdenville Tribune, a weekly newspaper printed in the Town of Holdenville. Hughes County, Oklahoma, a newspaper qualified to publish legal notices, advertisements and publications as provided in Section 106 of Title 25, Oklahoma Statutes 1971 as amended, and complies with all other requirements of the laws of Oklahoma with reference to legal publications. That said notice, a true copy of which is attached hereto, was published in the regular edition of said newspaper during the period and time of publication and not in a supplement, on the following dates: December 14, 2011 Publication Fee. \$ 144.00	Subscribed and sworn to before me this 14th day of Decoration Decoration Expires: 11-30-13 #01018834



DEPARTMENT OF THE ARMY CORPS OF ENGINEERS, TULSA DISTRICT 1645 SOUTH 101ST EAST AVENUE TULSA, OKLAHOMA 74128-4609

February 14, 2011

Regulatory Office

PROJECT NAME: Proposed Discontinuance of Service over the Shawnee Branch

CORPS POC: Karla Roberts, 918-669-7400

Ms. Colleen K. Graham, Paralegal Union Pacific Railroad, Law Department 1400 Douglas St., Stop 1580 Omaha, NE 68179

Dear Ms. Graham:

Please reference your correspondence of January 25, 2011, regarding the above listed project.

The provided information does not indicate that a placement of dredged or fill material will be required, permanently or temporarily, into any "waters of the United States," including jurisdictional wetlands. Therefore, your proposal is not subject to regulation pursuant to Section 404 of the Clean Water Act (CWA), and a Department of the Army (DA) permit will not be required. Should your method of construction necessitate such a discharge into an aquatic area or tributary stream, we suggest that you resubmit that portion of your project so that we may determine whether an individual DA permit will be required.

Although Section 404 CWA authorization is not required, this does not preclude the possibility that a real estate interest or other Federal, State, or local permits may be required.

If you have any questions or if further assistance is desired, contact the Corps POC listed above. Please refer to the case number listed above during any future correspondence.

Sincerely,

David A. Manning
Chief, Regulatory Office

Karla Robert

United States Department of Agriculture



Natural Resources Conservation Service, 102 N. indian Meridian, Pauls Valley, OK 73075

405-238-6767 x128

January 24, 2011

Colleen K. Graham
Paralegal
Union Pacific Railroad
Law Department
1400 Douglas St., Stop 1580
Omaha, NE 68179

RE: Discontinuance of service of railroad from milepost 370.5 near McAlester, OK to milepost 446.5 near Shawnee, OK, STB Docket No. AB-33.

Dear Ms. Graham:

In accordance with your request for environmental information on prime farmland soils due to the discontinuance of service this would have no effect on prime farmland as this land that the tracks are on has previously been converted.

Sincerely,

Carl Woods

Resource Soil Scientist Pauls Valley Technical Service Office Pauls Valley, OK 73075

405-238-6767 x128

Carl Woods



Oklahoma Historical Society State Historic Preservation Office

Founded May 27, 1893

Oklahoma History Center • 800 Nazih Zuhdi Drive • Oklahoma City, OK 73105-7917 (405) 521-6249 • Fax (405) 522-0816 • www.okhistory.org/shpo/shpom.htm

February 8, 2011

Ms. Colleen K. Graham Union Pacific Railroad, Law Department 1400 Douglas St., Stop 1580 Omaha, NE 68179

RE: File #0669-11; Union Pacific Railroad Service Discontinuance over Shawnee Branch

Dear Ms. Graham:

We have received and reviewed the documentation concerning the referenced project in Hughes, Pittsburg, Pottawatomie & Seminole Counties. Additionally, we have examined the information contained in the Oklahoma Landmarks Inventory (OLI) files and other materials on historic resources available in our office. We find that there are no historic properties affected by the referenced project.

Thank you for the opportunity to comment on this project. We look forward to working with you in the future.

If you have any questions, please contact Timothy G. Baugh, Ph.D., Historical Archaeologist, at 405/521-6381.

Should further correspondence pertaining to this project be necessary, please reference the above underlined file number. Thank you.

Sincerely,

Melvena Heisch

Deputy State Historic Preservation Officer

MH:jr